

AGENDA MEMO

CITY COUNCIL MEETING DATE: JUNE 17, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: SUP-33973 - APPLICANT: LIBORIO MARKETS #13, INC. -
OWNER: CHARLESTON VEGAS NO. 1, LLC**

**** CONDITIONS ****

The Planning Commission (6-0 vote) and staff recommend APPROVAL, subject to conditions.

Planning and Development

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for Retail Establishment with Accessory Package Liquor Off-Sale use, including parking requirements.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. Approval of this Special Use Permit does not constitute approval of a liquor license.
4. The sale of single beers, malt beverages, or wine coolers of any size with alcohol by volume greater than 6% shall be prohibited. The sale of wines with an alcohol by volume of greater than 16% shall be prohibited.
5. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
6. All beer and wine coolers shall remain in their original manufacturer's configuration of four- or six-packs.
7. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit for a proposed Grocery Store with Accessory Package Liquor Off-Sale within an existing 41,500 square-foot General Retail Shopping Center at 4440 East Charleston Boulevard. Staff is recommending approval of this application, as the proposed use will be ancillary to the Grocery Store and can be conducted in a manner that is harmonious and compatible with the existing and future surrounding land uses.

BACKGROUND INFORMATION

| <i>Related Relevant City Actions by P&D, Fire, Bldg., etc. and Property Sales</i> | |
|--|--|
| 05/22/63 | The Board of City Commissioners approved a request for Reclassification of Property (Z-0083-63) from R-1 (Single Family Residential) to R-3 (Medium Density Residential) and C-1 (Limited Commercial) on the northeast corner of East Charleston Boulevard and Lamb Boulevard. This case also served as a Plot Plan Review for a proposed neighborhood shopping center. The Planning Commission recommended approval of the request. |
| 05/14/09 | The Planning Commission voted 6-0 to recommend APPROVAL (PC Agenda Item #31/jb). |
| <i>Related Building Permits/Business Licenses</i> | |
| 1979 | Shopping Center constructed |
| 12/29/05 | A business license (G05-00591) was issued for a Grocery Store at 4440 East Charleston Boulevard. This license was marked out of business on 12/05/07 |
| 01/20/09 | A building permit (#131845) was issued for non-structural demolition and sewer investigation at 4440 East Charleston Boulevard. This permit has not been finalized. |
| 03/02/09 | A building permit (#134584) was issued to replace scope of work for vandalism/Drywall repair/elect panel/Hvac copper pipe/Plumb of copper tubing at 4440 East Charleston Boulevard. This permit has not been finalized. |
| 03/05/09 | A building permit (#134584) was issued for Tenant Improvement at 4440 East Charleston Boulevard. This permit has not been finalized. |
| 04/01/09 | A temporary business license (G05-98029) was issued for a Grocery Store at 4440 East Charleston Boulevard. This license is still active. |
| <i>Pre-Application Meeting</i> | |
| 03/13/09 | A pre-application meeting was held where the submittal requirements for a Special Use Permit were discussed. |
| <i>Neighborhood Meeting</i> | |
| A neighborhood meeting was not required, nor was one held. | |

| Field Check | |
|--------------------|---|
| 04/09/09 | <p>During a routine site inspection Staff observed:</p> <ul style="list-style-type: none"> • Three parking lot landscape islands are missing required shade trees; all parking lot landscape islands are missing required plant material ground cover per approved landscape plans. • Landscape buffers adjacent to Lamb Boulevard and Charleston Boulevard are missing required trees and shrubs per approved landscape plans. <p>All landscaping deficiencies were forwarded to Code Enforcement for compliance to the approved landscaping plan.</p> |

| Details of Application Request | |
|---------------------------------------|------|
| Site Area | |
| Gross Acres | 6.93 |

| Surrounding Property | Existing Land Use | Planned Land Use | Existing Zoning |
|----------------------|--------------------------|--|---|
| Subject Property | Shopping Center | SC (Service Commercial) | C-1 (Limited Commercial) |
| North | Single-Family Residences | L (Low Density Residential) | R-1 (Single Family Residential) |
| South | General Retail | CG [Commercial General – Clark County (Sunrise Manor) Designation] | C-1 [Local Business – Clark County (Sunrise Manor) Designation] |
| | Shopping Center | CG [Commercial General – Clark County (Sunrise Manor) Designation] | C-2 [General Commercial – Clark County (Sunrise Manor) Designation] |
| East | Shopping Center | SC (Service Commercial) | C-1 (Limited Commercial) |
| West | General Retail | SC (Service Commercial) | C-1 (Limited Commercial) |
| | Multi-Family Residences | SC (Service Commercial) | R-3 (Medium Density Residential) |
| | Multi-Family Residences | ML (Medium Low Density Residential) | R-PD6 (Residential Planned Development – 6 Units per Acre) |

| Special Districts/Zones | Yes | No | Compliance |
|--|------------|-----------|-------------------|
| Special Area Plan | | X | N/A |
| Special Districts/Zones | Yes | No | Compliance |
| Special Purpose and Overlay Districts | | X | N/A |

| | | | |
|---|----|---|-----|
| Trails | | X | N/A |
| Rural Preservation Overlay District | | X | N/A |
| Development Impact Notification Assessment | | X | N/A |
| Project of Regional Significance | X* | | Y |

* Pursuant of Ordinance N. 5477 this project is deemed a "Project of Regional Significance" because the subject property is located within 500 feet of the City boundary with Clark County, no comments have been received.

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

| Parking Requirement | | | | | | | |
|---------------------|-------------------------------------|---------------|---------|--------------|----------|--------------|------------|
| Use | Gross Floor Area or Number of Units | Required | | | Provided | | Compliance |
| | | Parking Ratio | Parking | | Parking | | |
| | | | Regular | Handi-capped | Regular | Handi-capped | |
| Shopping Center | 112,734 | 1:250 | 451 | 9 | 397 | 6 | Y* |
| TOTAL | | | 460 | | 403 | | |

*The proposed use will be located within an existing retail building site approved by (Z-0083-63) with associated surface parking and no expansion of the existing facility is proposed. The project location is considered parking impaired pursuant to Title 19.10.010(c).

ANALYSIS

This request is for a Special Use Permit for a proposed 41,500 square-foot Grocery Store with Accessory Package Liquor Off-Sale within an existing General Retail Shopping Center at 4440 East Charleston Boulevard. The applicant has indicated that the proposed Grocery Store will sell meat, produce, dairy, dry groceries and package liquor. The proposed site will also have a restaurant inside the premises; however they do not intend to sell any alcoholic beverages for consumption inside the store. Staff is recommending approval of this application, as the proposed use will be ancillary to the Grocery Store and can be conducted in a manner that is harmonious and compatible with the existing and future surrounding land uses

- Use**

Retail Establishment with Accessory Package Liquor Off-Sale is defined by Title 19 as, a retail establishment:

1. Whose license to sell alcoholic beverages authorizes their sale to consumers only and not for resale, in original sealed or corked containers, for consumption off the premises where the same are sold; and

2. In which the sale of alcoholic beverages is ancillary to the retail use, and in which no more than 10 percent of the retail floor space is regularly devoted to the display or merchandising of alcoholic beverages.

This use includes an establishment that provides on-premises wine, cordial and liqueur tasting if the licensee also holds a wine, cordial and liqueur tasting license for that location.

- **Minimum Special Use Requirements**

- *1. Except as otherwise provided, no retail establishment with accessory package liquor off-sale (hereinafter “establishment”) shall be located within 400 feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City park.
- *2. Except as otherwise provided in Requirement 3 below, the distances referred to in Requirement 1 shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed establishment which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed establishment. The distance shall be measured in a straight line without regard to intervening obstacles. For purposes of measurement, the term “property line” refers to property lines of fee interest parcels and does not include the property line of:
 - a. Any leasehold parcel; or
 - b. Any parcel which lacks access to a public street or has no area for on-site parking and which has been created so as to avoid the distance limitation described in Requirement 1.
- *3. In the case of an establishment proposed to be located on a parcel of at least 80 acres in size, the minimum distances referred to in Requirement 1 shall be measured in a straight line:
 - a. From the nearest property line of the existing use to the nearest portion of the structure in which the establishment will be located, without regard to intervening obstacles; or
 - b. In the case of a proposed establishment which will be located within a shopping center or other multiple-tenant structure, from the nearest property line of the existing use to the nearest property line of a leasehold or occupancy parcel in which the establishment will be located, without regard to intervening obstacles.
4. When considering a Special Use Permit application for an establishment which also requires a waiver of the distance limitation in Requirement 1, the Planning Commission shall take into consideration the distance policy and shall, as part of its recommendation to the City Council, state whether the distance requirement should be waived and the reasons in support of the decision.

5. The minimum distance requirements in Requirement 1 do not apply to:
 - a. An establishment which has a non-restricted gaming license in connection with a hotel having 200 or more guest rooms on or before July 1, 1992 or in connection with a resort hotel having in excess of 200 guest rooms after July 1, 1992; or
 - b. A proposed establishment having more than 50,000 square feet of retail floor space.
- *6. All businesses which sell alcoholic beverages shall conform to the provisions of LVMC Chapter 6.50.
7. The minimum distance requirements set forth in Requirement 1, which are otherwise non-waivable under the provisions of Section 19.040.050(A)(4), may be waived:
 - a. In accordance with the provisions of Section 19.040.050(A)(4) for any establishment which is proposed to be located on a parcel within the Downtown Casino Overlay District;
 - b. In accordance with the applicable provisions of the "Town Center Development Standards Manual" for any establishment which is proposed to be located within the T-C (Town Center) Zoning District and which is designated MS-TC (Main Street Mixed Use) in the Town Center Land Use Plan;
 - c. In connection with a proposed establishment having between 20,000 square feet and 50,000 square feet of retail floor space; or
 - d. In connection with a retail establishment having less than 20,000 square feet of retail floor space, if the area to be used for the sale, display or merchandising of alcoholic beverages and each use to be protected are separated by a highway or a right-of-way with a width of at least 100 feet

The proposed use meets the minimum Special Use Permit requirements of a Grocery Store with Accessory Package Liquor Off-Sale use. Staff finds that public health, safety, and welfare will not be compromised and recommends approval.

- **Floor Plan**

The floor plan indicates that there will be 41,500 square feet of space within the proposed Grocery Store, with 180 (0.004%) square feet of space designated for package liquor sales. According to the submitted floor plan it has been determined that space has been allocated for a sales floor, check stands, bakery service, deli services, seafood services, meat services and produce with freezer storage areas in the rear portion of the existing tenant space. The proposed use will not change the physical appearance or characteristics of the subject site and is compatible with the surrounding uses in the area.

FINDINGS

The following findings must be made for a Special Use Permit:

- 1. “The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The proposed use is compatible with the SC (Service Commercial) General Plan land use designation and can be conducted in a manner that is harmonious and compatible with the existing surrounding land uses.

- 2. “The subject site is physically suitable for the type and intensity of land use proposed.”**

The proposed Grocery Store with Accessory Package Liquor Off-Sale use will be located in an existing shopping center, which is physically suitable for the type and intensity of the land use proposed.

- 3. “Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

Access to the site is via driveways from Lamb Boulevard and Charleston Boulevard, both of which are 100-foot wide Primary Arterials, according to the Master Plan of Streets and Highways. Both of which are adequate to facilitate the traffic generated by the proposed use.

- 4. “Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

Approval of this special use permit will not compromise public health, safety, or welfare as the proposed Grocery Store with Accessory Package Liquor Off-Sale use will be subject to regular inspections.

- 5. The use meets all of the applicable conditions per Title 19.04.**

The proposed Grocery Store with Accessory Package Liquor Off-Sale use complies with the conditions per Title 19.04.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

3

ASSEMBLY DISTRICT 11

SENATE DISTRICT 10

NOTICES MAILED 742 by City Clerk

APPROVALS 2

PROTESTS 3